

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
Eduardo RAMIREZ,
Defendant.

Magistrate Case No. 07MJ8834

**FINDINGS OF FACT AND
ORDER OF DETENTION**

In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.), a detention hearing was held on October 10, 2007, to determine whether defendant Eduardo RAMIREZ, should be held in custody pending trial on the grounds that he is a flight risk. Assistant U. S. Attorney John F. Weis appeared on behalf of the United States. Court-appointed counsel Maxine I. Dobro, appeared on behalf of the Defendant.

Based on the evidence proffered by the United States and the Defendant, the Pretrial Services Report, and the criminal complaint issued against the Defendant on February 21, 2007, by this Court, the Court concludes that the following facts establish by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the Defendant required.

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FINDINGS OF FACT

A. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1))

1. The Defendant is charged in Criminal Complaint No. 07MJ8834 with the importation of 76.12 kilograms (167.46 pounds) of cocaine in violation of 21 U.S.C. § 952 and 960. Therefore, probable cause exists to believe the Defendant committed the charged offense.

2. The charged offense is an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Uniform Controlled Substances Act (21 U.S.C. § 801 et seq.). Thus, there arises a presumption that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required. See 18 U.S.C. § 3142(e).

3. The offense carries with it a minimum mandatory 10 year sentence and a maximum life sentence. See 21 U.S.C. § 960(b)(1)(B). According to the United States Sentencing Guidelines, the Base Offense level is 36. See USSG § 2D1.1(2). Assuming the Defendant's criminal history score places him in Criminal History Category II, See USSG § 4A1.1, the sentencing range for the Defendant is 210-262 months in prison.

B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2)):

1. On October 4, 2007, Defendant was the driver and registered owner of a 2006 Chevrolet Monte Carlo, as he entered the Calexico, California, West Port of Entry. Defendant and the vehicle were referred for an x-ray examination. X-ray examination of the vehicle showed anomalies under the rear seat. A subsequent search of the vehicle resulted in the discovery of 76.12 kilograms (167.46 pounds) of cocaine located under the rear seat. Defendant stated he knew the vehicle contained contraband and he was to be paid \$3,000.00 to take the vehicle to Los Angeles, California.

C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3)):

1. The Defendant is a United States citizen.
2. The Defendant is employed in a family business in Calexico, California.
3. The Defendant has family residing in Mexico and children in the United States.
4. The Defendant resides in Calexico, California.

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1 D. Nature and Seriousness of Danger Posed by Release (18 U.S.C. § 3142(g)(4):

2 1. The government proffered no evidence to suggest that release of the Defendant
3 would pose a danger to any person or the community. Defendant has the following criminal history:

4 05/09/95 - 499B PC Take vehicle for temporary use - Released detained only/ ascertain
5 evidence insufficient

6 04/08/97 - Misdemeanor 496(A) PC Receive/etc known stolen property - Probation;

7 05/11/99 - Bench Warrant 496(A) Receive/etc. known stolen property;

8 05/14/99 - Probation Revoked 496(A) PC;

9 07/16/03 - Misdemeanor 12500(A) VC Drive without license - 8 days jail or fine, 24 mos
10 prob, work program, imposition sentence suspended;

11 03/20/03 - BW 40508(A) VC Fail to appear:written promise;

12 06/13/03 - BW 14601.1(A) VC Drive while license suspend/etc - Convicted, sentence
13 not reported;

14 03/23/05 - Probation modified;

15 03/29/05 - Misdemeanor 243(#)(1) PC Battery:noncohabant former spouse/etc - 20 days
16 jail, 24 months probation, imposed sentence suspended, \$100 restitution fine;

17 05/07/07 - Warrant 243(E)(1) PC Battery:spouse/ex sp/date/etc.

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19 II

20 REASONS FOR DETENTION

21 A. There is probable cause to believe that the Defendant committed the offense charged in
22 Criminal Complaint Number 07MJ8834, to wit: the importation of 76.12 kilograms (167.46 pounds)
23 of cocaine in violation of 21 U.S.C. § 952 and 960.

24 B. The Defendant faces a substantial period of time in custody if convicted of the offense
25 charged in the Complaint. He therefore has a strong motive to flee.

26 C. The Defendant has not rebutted the presumption, based upon the Court's findings that
27 there is probable cause to believe that the Defendant committed an offense for which a maximum term
28 of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. § 801

et seq.), that no condition or combination of conditions will reasonably assure the appearance of the Defendant at future court proceedings.

III

ORDER

IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.


IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The Defendant shall be afforded reasonable opportunity for private consultation with counsel.

While in custody, upon order of a court of the United States or upon the request of an attorney for the United States, the person in charge of the correctional facility shall deliver the Defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding or any other appearance stipulated to by defense and government counsel.

THIS ORDER IS ENTERED WITHOUT PREJUDICE.

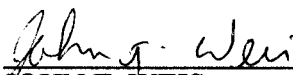
IT IS SO ORDERED.

DATED: 10-31-07.


PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE

Prepared by:

KAREN P. HEWITT
United States Attorney


JOHN F. WEIS
Assistant U. S. Attorney

cc: Maxine I. Dobro
Counsel for Defendant